IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.5 OF 2007

Mrs.Sheela John Merchant & Anr. ..Petitioners.

V/s.

The Municipal Corpn. of Gr.Mumbai...Respondent.

Mr.A.N.Maniyar for petitioners.

Mr.Bhor for BMC.

CORAM: A.M.KHANWILKAR,J

DATE : FEBRUARY 23, 2007.

P.C. :

1. Heard counsel for the parties. Perused the pleadings.

2. It is not possible to take the view that it is a case of wilful defiance of the order or the direction passed by this Court. The Corporation in fact initiated action of demolition and in continuation of that issued public advertisement inviting tenders for the estimated cost of demolition work. As the lowest tender received by the Corporation far exceeds the budgetary provision made for the subject work, Corporation is unable to place the order with the lowest tenderer until budget provision therefor is made. In this backdrop,

Corporation was given liberty of calling upon the owner to deposit necessary amount to engage contractor for demolition work. In view of that liberty, Corporation called upon the petitioner to deposit sum of Rs.7,95,000/-. The petitioner however, contends that in the first place the Corporation is liable to demolish the subject structure and recover the expenses so incurred from the sale proceeds of the debris. Only for the excess amount the Corporation would be entitled to proceed against the owner. At this stage, contends learned Counsel, therefore, the petitioner is not liable to pay any amount. Inevitably, the Corporation will have to await the budgetary provision.

3. Thus, understood, it is not possible to take the view that it is a case of wilful defiance of the order of Court. Hence this petition should fail. The same is dismissed. Notice issued to respondent stands discharged.